

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7429

BILL NUMBER: HB 1579

NOTE PREPARED: Feb 15, 2005

BILL AMENDED: Feb 14, 2005

SUBJECT: Contraband Cigarettes.

FIRST AUTHOR: Rep. Cherry

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill requires cigarette importers and manufacturers to obtain licenses from the Alcohol and Tobacco Commission. The bill also specifies to and from whom distributors, importers, manufacturers, and retailers may sell and receive cigarettes. The bill requires importers and manufacturers to maintain documentation concerning certain cigarette transactions. It also imposes a monetary penalty. The bill provides for public and private rights of action.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) This bill will have an indeterminable administrative cost impact on the Alcohol and Tobacco Commission (ATC) and the Attorney General's Office (AG).

This bill requires cigarette importers and manufacturers to obtain licenses from the ATC. The bill specifies that the ATC shall impose a fee of \$500 to issue or renew a license. The administrative cost impact will depend upon whether the \$500 fee is able to cover the increased administrative burden to the ATC.

This bill also requires that distributors report certain information regarding distribution of cigarettes to the AG on the 15th of every month. There are currently 100 to 150 licensed distributors in the state. This provision's administrative cost impact on the AG is presumed to be able to be covered through the use of existing staff and resources. This provision of the bill, relating to reporting to the AG, specifically exempts a licensed manufacturer who maintains the documentation required by the bill.

The bill also provides a cause of action against persons who violate the provisions of the bill. This action can

be brought by either the AG or a person that holds a valid importer or manufacturer permit under 26 U.S.C. 5712. The administrative cost impact of this provision on the AG will ultimately be determined by the number of actions initiated.

Explanation of State Revenues: This bill specifies to and from whom distributors, importers, manufacturers and retailers may sell and receive cigarettes. These provisions in conjunction with the licensing requirements may aid the ATC and DOR in monitoring cigarette tax compliance.

The \$500 license fee that is imposed on manufacturers and importers will increase revenue to the ATC's Enforcement and Administration Fund. The increase in revenue will depend upon the number of licenses issued. It is unknown how many importers or manufacturers would seek licenses in Indiana.

This bill provides that violators are liable for civil penalties equal to the greater of: (1) 5 times the value of the cigarettes involved; or, (2) \$1,000. The penalties that are recovered under this provision are deposited in the state General Fund. The increase in revenue will depend upon the number of successful actions brought against violators.

Court Fee Revenue: If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected: Alcohol and Tobacco Commission; Attorney General.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources: Terry Collins, Department of Revenue, 317-233-0388.

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